THE BOMBAY HINDU HEIRS' RELIEF ACT, 1866.

CONTENTS.

PREAMBLE.

Sections.

1. Hindu son or grandson not liable as such for debt of ancestor.
2. Heir to be liable as representative of deceased ancestor only to extent of assets received.

   Liability in respect of assets received and not applied.
3. [*Repealed.*]
4. Husband of Hindu widow not liable for debt of deceased former husband.
5. Liability of member of undivided Hindu family for family debts contracted during his minority.
6. Saving of liability of surviving member of undivided Hindu family.
7. Interpretation.
8. [*Repealed.*]
9. Short title.

BOMBAY ACT No. VII OF 1866.[1]

[THE BOMBAY HINDU HEIRS' RELIEF ACT, 1866.]

[*31st May, 1866.*]

Repealed in part, by Act 12 of 1873 ;

" " " " Bom. 3 of 1886.

An Act to limit the liability of a son, grandson or heir of a deceased Hindu for the debts of his ancestor, and the liability of the second husband of a Hindu widow for the debts of her deceased husband, and otherwise to amend the law of debtor and creditor.

Preamble.

WHEREAS, according to the law in force, as applied to Hindus by the High Court of Judicature at Bombay in the exercise of its ordinary original civil jurisdiction, no son or grandson of a deceased Hindu is liable for the debts of his ancestor merely by reason of his being such son or grandson, and no son, grandson or other heir of a deceased Hindu, who has received assets of the deceased, is merely from that circumstance liable for the debts of his ancestor beyond the amount of the assets received, and no person marrying a Hindu widow is liable in consequence of such marriage for the debts of her former or any prior deceased husband ;

and whereas a different law is applied to Hindus by the Civil Courts which exercise jurisdiction in places beyond the local limits of the ordinary original civil jurisdiction of the said High Court, and it is expedient to amend the law as applied by such other Courts, and to make the law in that respect uniform throughout the Presidency of Bombay ;

and whereas it is also expedient to limit the liability of a Hindu for a family-debt contracted when he was unborn or under twenty-one years of age ;

It is hereby enacted and declared as follows :—

Hindu son or grandson not liable as such for debt of ancestor.

1. No son or grandson of a deceased Hindu shall, merely by reason of his being such son or grandson, be liable to be sued for any of the debts of such deceased Hindu.

Heir to be liable as representative of deceased ancestor only to extent of assets received.

2. No son, grandson or heir of a deceased Hindu, who has by himself or his agent received or taken possession of any property belonging to the deceased, shall be liable personally for any of the debts of the deceased, merely by reason of his having so received or taken possession of any such property ; but the liability of such son, grandson or heir, in respect of such debts, shall be as the representative of such deceased Hindu and shall be limited to paying the sum out of and to the extent of the property of the deceased which such son, grandson or heir or any other person, by his order or to his use, has received or taken possession of as aforesaid, and which remains unapplied :

Liability in respect of assets received and not applied.

Provided that, if any part of such property so received or taken possession of as aforesaid shall not have been duly applied by such son, grandson or heir, he shall be liable personally for such debts to the extent of the property not duly applied by him.

3. [*Pending suits.*] *Rep. Act XII of 1873.*

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1886, Supplement, p. 320 ; for Report of the Select Committee, *see ibid*, p. 357 ; and for Proceedings in Council, *see ibid*, pp. 330, 352, 372 and 373.

Husband of Hindu widow not liable for debt of deceased former husband.

4. No person who has married a Hindu widow shall, merely by reason of such marriage, be liable for any of the debts of any prior deceased husband of such widow * * * *[1].

Liability of member of undivided Hindu family for family debts contracted during his minority.

5. Where a debt is contracted after this Act shall come into operation by one or more members of an undivided Hindu family, under such circumstances as that the same forms the debt of the undivided family, no member of such undivided family, who is unborn or under the age of twenty-one years at the time of the contracting of such debt, shall be liable personally to pay the same, but such member shall only be liable to pay the same out of and to the extent of the property of the undivided Hindu family and of the separate property, if any, belonging to any deceased members of the undivided family who were above the age of twenty-one years at the time of the contracting the same, received or taken possession of by such member or any other person by his order or to his use and remaining unapplied, unless any part of such property so received or taken possession of as aforesaid shall not have been duly applied by such member, in which case he shall be further liable personally for such debt to the extent of the property not duly applied by him.

Saving of liability of surviving member of undivided Hindu family.

6. Except as provided in section 5 [2]* * *, nothing in this Act contained shall be construed as limiting or affecting the liability of any person as surviving member or one of the surviving members of an undivided Hindu family for any debt contracted under such circumstances as that the surviving member or surviving members of such undivided family is or are by the law now in force liable to pay the same.

Interpretation.

7. The term "debts," as used in this Act, shall be construed to include all liabilities arising out of any claims which could or might be enforced against a deceased Hindu himself if living, and for which a suit would lie against his representative. [3]* * *

8. [*Commencement of Act.*] *Rep. Act XII of 1873.*

Short title.

9. This Act may be cited for all purposes as the Bombay Hindu Heirs' Relief Act, 1866.

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[1] The rest of section 4 which was as follows:—"and the provisions of this section may be used as a defence by any such person who shall be defendant in a suit which may be pending at the time when this Act comes into operation, and in which it is sought to make such person liable for any such debts merely by reason of his having married such Hindu widow and in which suit judgment shall not have been pronounced before this Act comes into operation; and with regard to the costs of any suit to which the provisions of this section shall apply, the same shall be dealt with by the Court which makes the decree in the suit, in the same way as such costs would have been dealt with had a decree been made in such suit before this Act had come into operation" was repealed by the Repealing Act, 1873 (12 of 1873).

[2] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. 3 of 1886), Schedule B. This Schedule has been reprinted as an Appendix to the Bombay General Clauses Act, 1904 (Bom. 1 of 1904).

[3] The rest of section 7 which was as follows:—"and unless there be something in the context or subject repugnant to such construction, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number and words importing the masculine gender shall include females" was repealed by the Bombay General Clauses Act, 1886 (Bom. 3 of 1886).